

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 07-20525

Honorable Thomas L. Ludington

MARCUS CONWAY,

Defendant.

**ORDER DENYING LETTER REQUEST FOR APPOINTMENT OF COUNSEL AND
LIMITED DISCOVERY**

Defendant Marcus Conway was convicted of three counts of distributing five grams or more of a mixture and substance containing cocaine base in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(iii) and sentenced to thirty years in prison on August 28, 2008. He filed a direct appeal, but was denied relief by the Sixth Circuit Court of Appeals on December 15, 2010 [Dkt. #45].

On March 14, 2011, Defendant filed a letter indicating he intends to file a motion to vacate his sentence pursuant to 28 U.S.C. § 2255, and seeking appointment of counsel and requesting limited discovery [Dkt. #53]. Although a district court may, in its discretion, appoint an attorney to represent a petitioner seeking relief under § 2255, *See Rules Governing § 2255 Cases*, 28 foll. § 2255, Rule 8(c); 18 U.S.C. § 3006A, appointed counsel is not required, *Foster v. United States*, 345 F.2d 675, 676 (6th Cir. 1965). At this time, Defendant has not provided an adequate justification for appointment of counsel. Furthermore, Defendant has not provided the reasons for his discovery request of the “audio and video of the alleged transaction.” *See Rules Governing § 2255 Cases*, 28 foll. § 2255, Rule 6(a)-(b). If Defendant is able to sufficiently articulate the reasons for his request and can demonstrate good cause for such discovery or, after filing his petition, he can successfully

articulate a reason why appointed counsel is justified, the Court will reconsider his motion.

Accordingly, it is **ORDERED** that Defendant's letter requesting appointment of counsel and limited discovery [Dkt. #53] is **DENIED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: March 25, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and on Marcus Courtney Conway, #41869039, at Big Sandy U.S. Penitentiary, Inmate Mail/Parcels, P.O. Box 2068, Inex, KY 41224 by first class U.S. mail on March 25, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS